

**DELAWARE RIVER BASIN COMMISSION**

**MEETING OF FEBRUARY 28, 2007**

**Minutes**

The Commission met at the offices of the Delaware River Basin Commission in West Trenton, New Jersey.

Commissioners present: Lt. Col. Gwen E. Baker, Chair, United States  
Cathy Curran Myers, Vice Chair, Pennsylvania  
William A. Gast, Pennsylvania  
Mark N. Mauriello, Second Vice Chair, New Jersey  
Michele Putnam, New Jersey  
Joseph Miri, New Jersey  
Mark Klotz, New York  
Kevin C. Donnelly, Delaware  
Harry W. Otto, Delaware

DRBC Staff participants: Carol R. Collier, Executive Director  
Robert Tudor, Deputy Executive Director  
Kenneth J. Warren, DRBC General Counsel, Wolf, Block, Schorr & Solis-Cohen  
Pamela M. Bush, Commission Secretary/Assistant General Counsel  
Thomas J. Fikslin, Modeling and Monitoring Branch Head  
Richard K. Fromuth, Operations Branch Head  
Richard C. Gore, Chief Administrative Officer  
William J. Muszynski, Project Review Branch Head  
Hernan Quinodoz, Senior Engineer/Hydrologist, Operations Branch

Chairwoman Lt. Col. Gwen E. Baker convened the business meeting at 1:30 p.m. Lt. Col. Baker announced that Agenda Item K, concerning effluent sampling for nutrients within the Brodhead Creek Watershed, would be tabled until further notice.

Minutes. Lt. Col. Baker called for a motion to approve the Minutes of the Commission's meeting of December 12, 2006. Ms. Myers so moved, Mr. Donnelly seconded her motion, and the Minutes of the December 12, 2006 Commission Meeting were approved by unanimous vote.

Announcements. Ms. Bush announced the following upcoming meetings:

- *DRBC Regulated Flow Advisory Committee (RFAC) Meeting.* Tuesday, March 6, 2007 at 10:00 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey. Agenda to include a presentation followed by Q and A on the Decree Parties' proposal for a Flexible Flow Management Plan (FFMP). Staff contact is Rick Fromuth, (609) 883-9500, ext. 232.

- *DRBC Water Accountability Subcommittee Meeting (WASM)*. Tuesday, March 13, 2007 at 9:30 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey. WASM is a subcommittee of the Water Management Advisory Committee. Staff contact is David Sayers, (609) 883-9500, ext. 236.
- *DRBC Informational Meeting on the Proposed Flexible Flow Management Plan (FFMP)*. Tuesday, March 27, 2007 at 1:00 p.m. at the PPL Lake Wallenpaupack Environmental Learning Center, Hawley, Pennsylvania. Additional information and driving directions available on the DRBC website.
- *Two DRBC Public Hearings on the FFMP*. Tuesday, March 27, 2007 at 2:30 p.m. at the PPL Lake Wallenpaupack Environmental Learning Center, Hawley, Pennsylvania. Same date and location, at 6:30 p.m. Staff contact is Pamela Bush, (609) 883-9500, ext. 203.
- *DRBC Flood Advisory Committee Meeting*. Wednesday, May 2, 2007 at 10:00 a.m. in the Goddard Conference Room, 25 State Police Drive, West Trenton, New Jersey. Staff contact is Rick Fromuth, (609) 883-9500, ext. 232.
- *2007 Schuylkill Watershed Congress*. Presented by the Delaware Riverkeeper Network (DRN), on Saturday, March 3, 2007 at the West Campus of the Montgomery County Community College in Pottstown, Pennsylvania. Additional information available on DRN's website.
- *Emergency Response and Drinking Water Resources in the Delaware River Basin Conference*. Presented by DRBC and Philadelphia Water Department, in cooperation with the Water Resources Association of the Delaware River Basin, on Wednesday, March 21, 2007 at the New Jersey Rutgers EcoComplex in Bordentown, New Jersey. Informational brochure available through a link on the DRBC website.
- *Next Commission Meeting*. Thursday, May 10, 2007 in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey.

Hydrologic Conditions. Mr. Fromuth reported on hydrologic conditions in the Basin.

The observed precipitation for the Delaware River Basin above Montague, New Jersey during calendar year 2006 was 51.23 inches or 7.97 inches above normal. For the same period, rainfall for the Delaware River Basin above Trenton, New Jersey was 54.22 inches or 9.33 inches above normal. The observed precipitation for Wilmington, Delaware was 49.41 inches or 6.60 inches above normal for the same period.

The observed precipitation for the Delaware River Basin above Montague, New Jersey for the period January 1 through February 26, 2007 was 6.36 inches, or 0.88 inches above normal. For the same period, rainfall for the Delaware River Basin above Trenton, New Jersey was 5.99 inches or 0.09 inches above normal, and in Wilmington, Delaware, precipitation measured 5.46 inches or 0.58 inches below normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in January 2007 was 9,885 cubic feet per second (cfs), or 199 percent of the long-term average for the month. The average observed streamflow at Trenton, New Jersey in January was 19,106 cfs, or 148 percent of the long-term average for the month.

For the period from February 1 through February 26, 2007, the average observed streamflow of the Delaware River at Montague was 3,333 cfs, or 58 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 6,937 cfs, or 50 percent of the long-term average for the month. Flows at both stations were estimated by USGS due to river ice build-up.

In the Lower Basin, as of February 27, 2007, Beltzville Reservoir contained 13.09 billion gallons (bg) usable, or 100.7 percent of usable storage, and Blue Marsh contained 4.84 bg usable, or 101.7 percent of winter pool usable storage. Merrill Creek contained 15.315 bg usable, or 97.6 percent of usable storage.

In the Upper Basin, as of February 27, 2007, Pepacton Reservoir contained 124.065 bg usable, or 88.5 percent of usable storage. Cannonsville contained 81.380 bg usable, or 85.0 percent of usable storage. Neversink contained 30.721 bg usable, or 87.9 percent of usable storage. Total New York City Delaware Basin reservoir storage was 236.166 bg usable, or 87.2 percent of usable storage.

As of February 26, 2007 the average ground water level in eight reported USGS observation wells in the Pennsylvania portion of the Basin was above the long-term average. Water levels expressed as 30-day moving averages at six of these wells were within their normal ranges for this time of the year. Water levels at the remaining two wells in Wayne County and Schuylkill County were below their normal range. Water levels at the Cumberland County, New Jersey coastal plain observation well were above their normal range. Water levels at the New Castle County, Delaware coastal plain observation well were within their normal range as of October 18, 2006, the date last observed.

During the month of January 2007, the location of the seven-day average of the 250-parts per million (ppm) isochlor, also known as the “salt line,” ranged from river mile (RM) 55 to RM 69. The normal location of the salt line during January is RM 68, a location which is ten miles downstream of the Delaware-Pennsylvania state line. As of February 22, 2007, the salt line was located at RM 73, five miles upstream of the normal location for February.

Executive Director’s Report. Ms. Collier’s remarks are summarized below:

- *Interstate Flood Mitigation Task Force.* Led by Bob Tudor, staff has put a tremendous effort into development of the preliminary report of the governors’ interstate flood mitigation task force. Four public meetings on the preliminary report were held at locations throughout the basin in order to present the preliminary consensus recommendations of the task force and to accept public comment. A fifth public meeting is scheduled before the task force holds its final meeting and submits its report to the governors.
- *Flexible Flow Management Plan.* Staff also has supported the Decree Party work group in its development of the Flexible Flow Management Plan (FFMP), now available on the

Commission's website. The dates, times and locations of the public meetings and hearings on the FFMP were noted by Pam Bush and also are posted on the website.

- *Delaware Estuary Science Conference.* A successful Delaware Estuary Science Conference was held in late January in conjunction with a stewardship workshop.
- *PCB PMP Annual Report Workshop.* In conjunction with a group of municipal and industrial dischargers known as the TMDL Coalition for the Delaware Estuary, DRBC participated in a workshop on preparation of the first annual reports required by the Commission's Pollutant Minimization Plans (PMP) rule. Each of approximately 40 PCB dischargers to the Delaware Estuary identified upon issuance of the Stage 1 TMDL for PCBs became subject to the PMP requirement and thus will be required to submit an annual report this year. The purpose of the workshop was to hear dischargers' questions, answer as many as possible, and ensure reports would follow a common format.
- *River Basin Management Conference.* In the beginning of February I was asked to give a dinner speech in Atlanta, Georgia, at a river basin management conference co-hosted by the American Society of Civil Engineers and the Georgia Institute of Technology (Georgia Tech). As you know, that region is attempting to resolve conflicts over management of the Apalachicola-Chattahoochee-Flint and the Alabama-Coosa-Talapoosa rivers systems. The issues are similar to the ones that that we grapple with in the Delaware Basin, and the exchange was interesting and enlightening.
- *Federal Coordination Summit Follow-up.* Additional coordination efforts with the National Park Service have followed from the federal agency coordination summit convened at the request of General Grisoli in July of 2006. DRBC staff met with superintendents and staff of the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area, and with supervisors and staff of the NPS's Philadelphia regional office. It was agreed that such meetings should be convened twice a year – once with DRBC and National Park Service representatives only, and once with representatives of other agencies as well, including the USGS and U.S. Fish & Wildlife Service, which address some of the same issues. Consideration is begin given to the creation of a recreation and conservation advisory committee. DRBC and NPS staff are attending a Fish & Rivers Summit for two days this week, at which they will share some of their experiences in the Delaware Basin with other NPS units.
- *Joint Meeting of the Monitoring Advisory Committee (MAC) and the Water Quality Advisory Committee (WQAC).* DRBC staff members also participated in a joint meeting of the MAC and WQAC, primarily in order to discuss the development of nutrient criteria. Participants discussed how the MAC could work to develop an improved and more coordinated monitoring program for the basin. Bob Tudor has led an effort to develop a proposal to make the Delaware Basin a pilot study site within the National Water Quality Monitoring Network for coastal waters and tributaries. The latter initiative provides an opportunity for DRBC and its partners to study how conditions in the basin may affect the ocean.
- *DRBC Annual Report 2004-2005.* A combined annual report for the years 2004 and 2005 has been published on DRBC's website. Clarke Rupert led the development of the report, with design help from Sue Owens. It's a good summary of what occurred during the two-year period.

- *Delaware River Water Trail and Recreational Maps.* Preview copies of the new Delaware River Water Trail Guide have been posted on our walls. There will be a press event April 20th at the Washington Crossing Historic Park in Pennsylvania to formally launch this new product. The poster-format guide shows river access points from Hancock, New York to Trenton, New Jersey and is full of safety and other information needed to plan a paddling trip on the Delaware. DRBC's updated river recreation maps are going to the printer momentarily and also will be rolled out on April 20th. The lead on these efforts has been Pam Bush in conjunction with the Delaware River Greenway Partnership.
- *New Jersey Watershed Ambassador.* New Jersey Watershed Ambassador Lorna Gifis, who is on assignment at the DRBC, has coordinated an environmental stewardship program with the Trenton Thunder, Trenton's minor league baseball team. New Jersey's watershed ambassadors present programs on clean water at local schools. Through Lorna's program, children who take pledges such as "I'll clean up after my pet" and "I'll encourage my family to use environmentally-friendly fertilizer," receive two free tickets to a ball game.
- *DRBC Website.* The number of "hits" (or visits) to the DRBC website, a measure of public interest in the DRBC's activities, has increased by 87% since 2005.
- *Delaware River Basin Water Resources Association Annual Awards Dinner.* On April 18<sup>th</sup> the Delaware River Basin Water Resources Association will hold its annual awards dinner. One of the awards this year is a Lifetime Achievement Award honoring Bill Gast of the Pennsylvania DEP.

General Counsel's Report. Mr. Warren reported on two matters pending before the Commission. First, he noted that one issue remained to be resolved in the matter of a June 2006 request for hearing by the Brodhead Creek Regional Authority (BCRA) in connection with Docket D-91-1 CP-2, issued to BCRA in May 2006. Mr. Warren reported that Pennsylvania was working closely with BCRA on a water allocation permit, and he was optimistic that the two entities would resolve that issue, rendering moot BCRA's appeal of its DRBC docket.

The second issue concerned a request for hearing by Moyer Packing Company (MOPAC), which the Commission approved at its December 2006 meeting. Mr. Warren said that an agreement between MOPAC and the Mainland Golf Course (MGC) had been reached through the able assistance of the Commission's Project Review Branch Head, William Muszynski, with support from Assistant General Counsel Pam Bush. Mr. Warren said the appeal would remain pending until an alternative water source for MGC actually was installed and operating, at which point the Executive Director would be authorized to elevate MOPAC's TDS discharge level. He expressed optimism that no hearing would be needed, and that upon installation of the alternative water supply and modification of the TDS discharge level, the request for hearing would be withdrawn.

Public Hearing: Project Review Applications. Mr. Muszynski reported that the Commission had provided public notice of 26 dockets for consideration at the day's hearing but as of the morning of February 28<sup>th</sup>, had received only one comment of any substance. That comment concerned draft Docket No. D-89-37-3 for Mount Airy #1, LLC (hearing item no. 1). The commenter expressed concern that the pass-by flow requirement at the project's dam site was not being maintained, and

specifically, that a valve had been welded. Commission staff members contacted two of the applicant's consultants, and both assured staff that the valve was operating properly and the pass-by requirement was being met. An inspection performed by one of the firms confirmed this assertion. The consultants promised to provide DRBC with their written assurances before the end of the day. After confirming that the applicant was in fact operating in compliance with its pass-by requirement, DRBC staff contacted the commenter, who was grateful to receive the prompt feedback and accepted staff's conclusion.

Brief descriptions of the dockets follow, in three categories. Four entail renewals with no substantive changes, such as a replacement well with no increase or decrease in allocation. Fourteen constitute renewals with substantive changes, such as an increase or decrease in an authorized withdrawal or discharge. Eight constitute new projects, defined as projects not previously reviewed by the Commission.

*Renewals with No Substantive Changes (4).*

1. Mount Airy #1, LLC D-89-37-3. An application for the renewal of a ground and surface water withdrawal project to continue withdrawal of 9.5 mg/30 days from Wells Nos. 1 and 2 and up to 14 mg/30 days from a surface water intake on Forest Hills Run to supply the applicant's public water supply distribution and golf course irrigation systems, respectively, in the Long Run Member of the Catskill Formation. The project is located in the Forest Hills Run Watershed in Paradise Township, Monroe County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.
2. BP Oil Products North America D-91-32-4. An application for the renewal of a ground water decontamination project at the former Paulsboro Refinery to continue withdrawal of 30 mg/30 days for on-site treatment and discharge to the Delaware River through the existing outfall in DRBC Water Quality Zone 4. Up to 1 mgd of ground water is withdrawn from existing Wells Nos. R-4A, R-5A, R-6A, R-8, R-9, R-10, R-11, and R-12; all located inside the New Jersey Critical Area 2 of the Potomac-Raritan-Magothy Formation. The project is located off Mantua Avenue in Paulsboro Borough, Gloucester County, New Jersey.
3. Paunnacussing Founders, Inc. D-96-42-2. An application for renewal of a ground water withdrawal project to continue withdrawal of up to 6 mg/30 days to supply the applicant's Lookaway Golf Course from existing Wells PW-2 and PW-3. The project is located in the Brunswick Formation in the Mill Creek Watershed in Buckingham Township, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.
15. Pennsylvania American Water Company D-99-30 CP-4. An application for approval of a ground water withdrawal project to supply up to 12.96 mg/30 days of water to the applicant's Glen Alsace public water supply distribution system from new Well G-9A in the Brunswick Formation, and to retain the existing maximum withdrawal from all wells of 50 mg/30 days. The Glen Alsace distribution system also receives water from two existing interconnections—one with the Reading Area Water Authority (45 mg/30 days) and the other with the Mount Penn Water Authority (6 mg/30 days)—and conveys water to the

Pennsylvania American Water Company's Douglasville public water supply distribution system in Amity Township, Pennsylvania. The project is located in the Antietam Creek Watershed in Exeter Township, Berks County, Pennsylvania.

Hearing no questions or comments, upon Mr. Muszynski's recommendation Lt. Col. Baker asked for a motion to approve the four dockets, and hearing items 1, 2, 3 and 15 were approved by unanimous vote.

*Renewals with Substantive Changes (14).*

4. Freeland Borough Municipal Authority D-65-52 CP-2. An application for the approval of an extension of service area for the Freeland Borough Municipal Authority's Wastewater Treatment Plant (WWTP). The current WWTP serves Freeland Borough, with the new service area consisting of a portion of Foster Township. The existing WWTP's permitted discharge of 0.75 million gallons per day (mgd) will not be increased as a result of the new service area addition. The WWTP will continue to discharge to Pond Creek, a tributary to the Lehigh River, which is a tributary to the Lower Delaware River Special Protection Waters. The facility is located in Freeland Borough, Luzerne County, Pennsylvania.
5. General Chemical Corporation D-69-38-2. An application to update the original docket approving the discharge from the onsite industrial waste treatment plant (IWTP). General Chemical Corporation has ceased chemical manufacturing at the site. The original docket approved a 28.9 mgd discharge from the IWTP, whereas the current application is for approval of a 0.1 mgd IWTP discharge. The current discharge consists primarily of treated groundwater infiltration and stormwater runoff. In addition to the change in discharge conditions, the Commission has terminated Surface Water Entitlement No. 146, which approved a 33 mgd non-contact cooling water withdrawal. The IWTP, which is located in Claymont, Delaware, will continue to discharge to the Delaware River.
6. Spring City Borough D-74-61 CP-2. An application for the approval of an expansion of the Spring City Borough WWTP from 0.345 mgd to 0.600 mgd. The expansion will include the addition of a 600,000 gallon equalization tank, pumps and associated appurtenances. The expansion is being conducted to comply with a Consent Order and Agreement between the Borough and PADEP to eliminate wet weather related sewage bypasses at the WWTP and at the Main Street Pump Station. The WWTP will continue to discharge to the Schuylkill River. The facility is located in Spring City Borough, Chester County, Pennsylvania.
7. Birdsboro Municipal Authority D-74-126 CP-2. An application for approval of the upgrade and expansion of the Birdsboro Municipal Authority's WWTP. The WWTP's permitted average daily discharge will be increased from 1.0 mgd to 1.35 mgd. The WWTP will continue to discharge to Hay Creek, which is a tributary to the Schuylkill River. The facility is located in the Borough of Birdsboro, Berks County, Pennsylvania.
8. Myerstown Borough Sewer Authority D-74-176 CP-2. An application for approval of an upgrade and expansion of the Myerstown Borough Sewer Authority's Wastewater Treatment Plant (WWTP). The WWTP is proposed to be expanded from 1.6 mgd to 2.0 mgd and will continue to discharge to the Tulpehocken Creek, which is a tributary of the Schuylkill River. The facility is located in Jackson Township, Lebanon County, Pennsylvania.

9. Matamoras Municipal Authority D-81-78 CP-7. An application for the renewal of a ground water withdrawal project to increase withdrawal from 11.7 mg/30 days to 19.5 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 3, 5, 7, 8 and 8A in the Pleistocene Outwash and Mahantango Formations. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Delaware River Watershed in Matamoras Borough, Pike County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.
10. Pennsylvania Utility Company D-89-33 CP-3. An application for the renewal of a ground water withdrawal project to increase withdrawal from 6.4 mg/30 days to 21.01 mg/30 days to supply the applicant's 2,500 acre Highland Village (former Tamiment Resort) development from existing Wells Nos. 1, 2 and 3 in the Towamensing Member of the Catskill Formation. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Little Bushkill Creek Watershed in Lehman Township, Pike County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.
11. Joint Municipal Authority of Wyomissing Valley D-91-9 CP-2. An application for approval to modify the solids handling facilities at the Joint Municipal Authority of Wyomissing Valley WWTP. No change in the WWTP design capacity of 4 mgd is proposed. Existing solids handling facilities at the WWTP will be upgraded to improve WWTP sludge for liquid land application and/or dewatering prior to landfill disposal. WWTP effluent will continue to discharge to Wyomissing Creek in the Schuylkill River Watershed through the existing outfall. The WWTP is located in the City of Reading, Berks County, Pennsylvania. The WWTP will continue to serve the following municipalities: the Boroughs of West Reading, Wyomissing, Shillington and Mohnton; and portions of the Borough of Wyomissing Hills, Spring and Cumru Townships, and the City of Reading, all within Berks County.
12. Pennsylvania American Water Company D-92-64 CP-2. An application for the modification, reconstruction and expansion of an existing wastewater treatment plant to meet regional growth needs and more stringent water quality requirements. The WWTP discharge, located in the West Branch Brandywine Creek in Interstate Water Quality Zone C7, will increase from 3.85 mgd to 7.0 mgd. The facility is located in South Coatesville Borough, Chester County, Pennsylvania.
13. Pennsgrove Water Supply Company D-93-77 CP-2. An application for the renewal of a ground water withdrawal project to increase withdrawal from 58.9 mg/30 days to 70.4 mg/30 days and up to 753 mg/year to supply the applicant's public water supply distribution system from existing Wells RF1A, RF2B, RF3A, 2, 4, 7 and 11 in the Potomac-Raritan-Magothy Formation. The project is located in the Delaware River Watershed in Carneys Point Township, Salem County, New Jersey and is located just outside of the influence of New Jersey Critical Water Supply Area No. 2.
14. Borough of Fleetwood D-95-58 CP-2. An application for approval of a ground and surface water withdrawal project to supply up to 25.92 mg/30 days of water to the applicant's public

water supply distribution system from new Well No. 15 and to increase the total withdrawal from all wells and surface water intakes from 27.5 mg/30 days to 54.39 mg/30 days. The increased allocation is requested in order to meet projected increases in service area demand.

The new well is located in the Allentown Formation in the Willow Creek Watershed in Richmond Township, Berks County, Pennsylvania.

16. Burlington Township D-99-50 CP-2. An application for the renewal of a ground water withdrawal project to increase withdrawal from 113 mg/30 days to 129.8 mg/30 days of water to the applicant's public water supply system from new Well No. 8 and existing Wells Nos. 1A, 2, 3, 4, 5, 6 and 7. The project is located in the Potomac-Raritan-Magothy Formation in Burlington Township, Burlington County, New Jersey.
17. City of Easton D-99-62 CP. An application to expand the applicant's water filtration plant to 16 mgd and increase its surface water withdrawal allocation from 10 mgd to 13 mgd (390 mg/month) via its intake on the Delaware River at the northeast edge of the City of Easton, Northampton County, Pennsylvania. The proposed expansion is needed to serve increased population in the service areas of both the applicant and its main subsidiary customer, Easton Suburban Water Authority. The combined service area of both the City of Easton and the Easton Suburban Water Authority includes the City of Easton; Wilson, Glendon and West Easton Boroughs; Palmer and Forks Townships; and portions of Williams, Bethlehem, Plainfield, Lower Mount Bethel and Lower Nazareth Townships; all in Northampton County, Pennsylvania.
18. Buckingham Township D-2003-13 CP-3. An application for approval of a ground water withdrawal project to supply up to 1.0 mg/30 days of water to the applicant's Smith-Pfeiffer tract (also known as Forest Grove) distribution system from new Wells Nos. FG-1 and FG-2 and to increase the existing withdrawal from all wells from 41 mg/30 days to 42 mg/30 days in order to meet increased service area demand. The project is located in the Brunswick Formation in the Robin Run Watershed in Buckingham Township, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

Noting that Docket No. D-81-78 CP-7 for the Matamoras Municipal Authority and Docket No. D-89-33 CP-3 for the Pennsylvania Utility Company (hearing items 9 and 10) both involved significant increases in allocation, Mr. Donnelly asked whether these areas were experiencing significant growth. The proposed dockets would increase the allocation for the Matamoras Municipal Authority from 11.7 to 19.5 mg/30 days and the allocation for the Pennsylvania Utility Company from 6.4 to 21.01 mg/30 days. Mr. Muszynski explained that the Matamoras utility services a portion of Westfall Township in addition to Matamoras. Significant growth is projected for the Westfall Township area. A portion of the proposed allocation will service the development known as Highland Village, on the site of the former Tamiment Resort and Conference Center in the Bushkill drainage of the Brodhead Creek Watershed. An additional development in this area will encompass 2,500 acres. DRBC anticipates further allocations in this region when the developers identify additional water sources.

Hearing no further questions or comments, Lt. Col. Baker requested a motion to approve this group of dockets. Mr. Donnelly so moved, Ms. Myers seconded his motion, and the fourteen proposed docket renewals with substantive changes were approved by unanimous vote.

*New Projects (8).* Mr. Muszynski said that the remaining eight projects, although not new, are new to the Commission. He noted that like the Matamoras project (hearing item 9), Three Lane Utilities, Inc. (hearing item 19) is located in Westfall Township. The docket does not reflect an increase in allocation, but an initial docket for this facility, reflecting its total projected ten-year peak usage. Mr. Muszynski noted that the Matamoras and Three Lane projects both are located in the drainage area to Special Protection Waters and thus are subject to nonpoint source control plan requirements for areas associated with new connections.

19. Three Lane Utilities, Inc. D-2006-25 CP-1. An application for the approval of a ground water withdrawal project to supply up to 7.68 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 5 and up to 2.25 mg/30 days from existing Well No. 3 and to limit the existing withdrawal from all wells to 9.93 mg/30 days. The project is located in the Mahantango Formation in the Delaware River Watershed in Westfall Township, Pike County, Pennsylvania.
20. Downingtown Municipal Water Authority D-2006-31 CP-1. An application for the approval of an existing backwash discharge from the Authority's water treatment plant. The facility discharges up to 0.1 mgd of filter and clarifier backwash and sludge bed filtrate to an unnamed tributary of Beaver Creek, which is a tributary of the East Branch Brandywine Creek. The facility is located in Downingtown Borough, Chester County, Pennsylvania.
21. Little Washington Wastewater Company, Inc. D-2006-32-1. An application for the approval of a new WWTP facility to serve the proposed Honeycroft Village residential development. The proposed 86,000 gpd treated discharge will be land-applied to a dedicated 14.1 acre spray area. The development, treatment facilities and spray irrigation area are located in the Doe Run Watershed. Doe Run is a tributary of the West Branch Brandywine Creek. The facilities are located in Londonderry Township, Chester County, Pennsylvania.
22. Pennsylvania American Water Company D-2006-33-1. An application for approval of a ground water withdrawal project to supply up to 18.57 mg/30 days of water to the applicant's Blue Mountain Lake public water supply distribution system from new Wells Nos. PW1 and PW2. The project is located in the Mahantango Formation in the Brodhead Creek Watershed in Stroud Township, Monroe County, Pennsylvania. This withdrawal project is located within the drainage area to a section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.
23. Concord Associates, LP D-2006-35-1. An application for approval of a ground water withdrawal project to supply up to 6.0 mg/30 days of water to the applicant's distribution system from new Wells Nos. 1, 2 and PW-4. The project is located in the Upper Walton Formation in the Kiamesha Creek Watershed in the Town of Thompson, Sullivan County, New York, within the drainage area to a section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters.
24. Pennsylvania American Water Company D-2006-36-1. An application for approval to discharge filter backwash from PAWC's Rock Run water treatment plant (WTP). A discharge of 0.14 mgd is permitted from the WTP and will continue to be discharged to the Rock Run Reservoir, which is a tributary to the Brandywine Creek. The facility is located in West Caln Township, Chester County, Pennsylvania.

25. United States Army Training Center and Fort Dix D-2006-40 CP-1. An application for approval of a ground and surface water withdrawal project to supply up to 155 mg/30 days of water to the applicant's military base from Wells Nos. 2, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, Range 14, ASP, and ARDEC and from an intake on the Greenwood Branch of the North Branch Rancocas Creek. The project is located in the Middle Potomac-Raritan-Magothy, Englishtown, Cohansey, and Wenonah-Mt. Laurel aquifers in the Crosswicks Creek and North Branch Rancocas Creek Watersheds in New Hanover and Pemberton Townships, Burlington County and Plumstead and Manchester Townships, Ocean County, New Jersey.
26. Lenape Regional High School District D-2006-42 CP-1. An application for approval of a ground water withdrawal project to supply less than 3.1 mg/30 days of water to the applicant's irrigation and domestic supply system from new Wells Nos. 1, 2 and 3. The project is located in the Mt. Laurel and Cohansey Aquifers in the South Branch Rancocas Creek Watershed in Tabernacle Township, Burlington County, New Jersey.

Hearing no comments or questions, Lt. Col. Baker requested a motion for approval of the eight dockets. Mr. Mauriello so moved, Mr. Klotz seconded his motion, and hearing items 19 through 26 were approved by unanimous vote.

Public Hearing: Resolution Approving Amendments to Resolution No. 2006-18 Concerning a Spill Mitigation Program for the New York City Delaware Basin Reservoirs. Mr. Fromuth explained that the resolution would officially change the flood elevations that are used as criteria for curtailing supplemental releases from the New York City Delaware Basin reservoirs in accordance with the spill mitigation program established by Resolution No. 2006-18. The changes were put in effect in January, after the National Weather Service, in consultation with state and local officials, elevated flood stages for the river reaches immediately below the Cannonsville and Neversink dams, effective December 29, 2006, and at the same time changed the official flood stages and "action stages" at flood forecast points located several miles downstream of Pepacton and Neversink dams. Spill mitigation releases from the reservoirs are not made if the river stages at the downstream flood forecast points are above the action stage or are forecast to be above the action stage within 48 hours of a planned spill mitigation release. Mr. Fromuth referred to a map illustrating how the criteria for curtailment changed based on the NWS evaluation.

Mr. Fromuth explained that the higher combined spill and release flow rates for Cannonsville and Neversink reservoirs would allow spill mitigation releases to continue for a longer period of time before the maximum spill and release rates for the respective reservoirs would be reached. In deference to the wishes of local officials, no change was proposed for the East Branch immediately below the Pepacton Dam or to the corresponding spill and release flow rate from Pepacton Reservoir.

Hearing no questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution approving amendments to Resolution No. 2006-18 concerning a spill mitigation program for the New York City Delaware Basin Reservoirs. Mr. Klotz so moved, Mr. Mauriello seconded his motion, and Resolution No. 2007-1 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into Agreements for the Implementation of Phase 2 of the Dwarf Wedgemussel Study. Mr. Tudor explained that Resolution No. 2004-6 had authorized the Executive Director to work with the U.S. Army Corps of Engineers (ACOE) and the U.S. Fish & Wildlife Service (USFWS) to conduct the initial phase of study of the habitat of the

federally-endangered dwarf wedgemussel. The sum of \$300,000 toward the cost of the study was furnished by PPL Generation, LLC in accordance with the terms of a FERC settlement agreement. A portion of PPL contribution, along with in-kind contributions from the states and DRBC, were leveraged through the WRDA Section 22 program to obtain additional funds from the federal government to complete Stage 1. On two occasions, Alex Hoar of the USFWS and Dr. Piotr Parasiewicz, an expert on freshwater mussels and lead scientist on the project, provided status reports to the Commission on the study's progress. Mr. Tudor reported that it was now time to move ahead with the second and final phase of the study, utilizing the balance of the funds contributed by PPL, in-kind services provided by the state agencies and DRBC, and again, federal funds obtained through Section 22. Mr. Tudor said that Phase 2 was anticipated to be completed within 18 months.

The proposed resolution would provide retroactive authorization, because budget and time constraints for initiating Phase 2 of the study made it necessary for the Commission to extend its Section 22 sponsor agreement with the ACOE in January of 2007. Noting the importance of completing the mussel study in order to fulfill a condition of the Flexible Flow Management Plan now under Commission consideration, Mr. Tudor requested approval to proceed with Phase 2.

Hearing no questions or comments, Lt. Col. Baker called for a motion to approve the proposed resolution authorizing the Executive Director to enter into agreements for the implementation of Phase 2 of the dwarf wedgemussel study. Mr. Donnelly so moved, Ms. Myers seconded his motion, and Resolution No. 2007-2 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into Contracts for Studies of the Non-Tidal Delaware River Entailing the Identification and Evaluation of Periphyton; Nutrient Stimulation of Phytoplankton; and Analysis of Nutrients and Bacteria. Dr. Fikslin explained that the resolution would authorize the Executive Director to execute contracts for a period of three years, consisting of an initial one-year period with two optional one-year extensions, for studies of periphyton, nutrients and bacteria. The proposed studies would be funded in part by DRBC's Clean Water Act Section 106 program grant for the period from October 2006 through December 2007.

Since adoption of the Special Protection Waters regulations in the early 1990s, DRBC and the National Park Service have conducted monitoring in the upper and middle portions of the non-tidal Delaware River under a program called the Scenic Rivers Monitoring Program. The program was expanded in 2006 to include nutrients, for which little data exist since approximately 1995. DRBC and NPS staff have recommended that nutrient monitoring should continue in order to allow the agencies to better define existing water quality and ultimately to develop biocriteria for the non-tidal Delaware River.

Dr. Fikslin noted that the analysis of bacteria would be for three types – fecal coliform, Enterococcus and *E. coli* – and further that the analytical work would include a one-year nutrient stimulation study, involving spiking water samples with nutrients to determine when phytoplankton are nutrient limited.

Mr. Donnelly and Ms. Myers both cautioned that before investing heavily in pathogen testing, it would be important to identify the source species. Ms. Myers related that after EPA made *E. coli* the preferred pathogen test and states collectively spent large sums on assessment, they discovered that the test was a poor management tool because in some cases as much as 50 percent of the *E. coli*

present in ambient water samples were determined to be from non-human sources. She and Mr. Donnelly recommended that as an initial step in monitoring for pathogens it would be important to determine whether the bacteria were human or wildlife in origin and, importantly, whether their presence was symptomatic of a manageable water quality problem from a human health perspective. Mr. Donnelly noted that DNREC has a laboratory with the capability to furnish specific information about sources of bacteria, based on RNA analysis. He noted that the test is expensive, and short holding times pose a challenge. Dr. Fikslin acknowledged the short holding times required to obtain accurate *E. coli* monitoring results. Preston Luitweiler of Aqua Pennsylvania commented that it is possible to perform DNA source tracking on a culture after performing the initial test for the presence of *E. coli*, a procedure that makes holding time less of an issue. Dr. Fikslin agreed to investigate these caveats and alternatives before proceeding with tests for bacteria.

Mr. Mauriello asked whether Dr. Fikslin expected the Section 106 funding to continue at a level capable of sustaining the proposed monitoring for three years at the projected cost of \$70,000 per year. Dr. Fikslin explained that DRBC has confidence that its Section 106 funding will continue. Mr. Gore added that the Commission has been able to lock in prices over periods of up to five years by virtue of the number of samples submitted to a laboratory.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution authorizing the Executive Director to enter into agreements for analysis of nutrients and bacteria in the non-tidal Delaware. Mr. Donnelly so moved, Mr. Mauriello seconded his motion, and Resolution No. 2007-3 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into an Agreement with HydroLogics, Inc. for Modeling Services to Link the OASIS and Chloride Models. Hernan Quinodoz reported that the proposed effort would link the OASIS reservoir operations and flow routing model with two estuary models – the DYNHYD5 hydrodynamic model and the TOXI5 chloride transport model. When linked, the models will provide a tool for evaluating the effect of upper basin reservoir operations on estuary salinity concentrations. Dr. Quinodoz explained that because Hydrologics developed the OASIS model, the firm is uniquely equipped to perform the work.

The cost of the modeling effort is estimated to be \$30,000, which is within the amount budgeted for this task in a competitive grant awarded by the Secretary of the Army to the Philadelphia District of the U.S. Army Corps of Engineers. The Executive Director would accept the funds from the ACOE for the purpose of engaging HydroLogics, Inc. to develop the new software and to train DRBC staff in its use.

Mary Ellen Noble of the Delaware Riverkeeper Network asked whether the resulting model would be capable of taking into consideration predictions of sea level rise. Mr. Quinodoz said that it would.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution authorizing the Executive Director to enter into an agreement with HydroLogics, Inc. for modeling services to link the OASIS flow model and two estuary salinity models. Ms. Myers so moved, Mr. Donnelly seconded her motion, and Resolution No. 2007-4 was approved by unanimous vote.

Resolution Approving Minor Amendments to the *Administrative Manual: By-Laws, Management and Personnel*. Mr. Gore reported that staff had completed the process of converting the *Administrative Manual: By-Laws, Management and Personnel* document into an electronic format that incorporates all amendments to the original manual. In the course of this project, staff discovered several errors that should be corrected, and identified two practices that should be incorporated in the manual. Seven changes in total are proposed, five of which are housekeeping items and the remaining two of which would incorporate into the manual established practices that were not previously included. Mr. Gore recited the seven proposed changes set forth in the resolution.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution approving minor amendments to the *Administrative Manual: By-Laws, Management and Personnel*. Mr. Donnelly so moved, Mr. Klotz seconded his motion, and Resolution No. 2007-5 was approved by unanimous vote.

Resolution Approving the Commission's Operating and Capital Budgets for Fiscal Year 2008. Mr. Gore described key features of the proposed operating and capital budgets for the fiscal year running from July 1, 2007 through June 30, 2008 ("the Budget"). A public hearing on the resolution approving the Budget took place during the Commission's meeting of September 27, 2006. The Budget assumes full fair share contributions from all five signatories to the Delaware River Basin Compact. It provides for a three percent increase in signatory contributions – the first such increase since fiscal year 2002. The Budget also provides for continuation of the Pennsylvania Ground Water Protected Area program at a cost of \$265,000. The Commission acknowledges with appreciation that the Governor of Pennsylvania has included in the Commonwealth's budget the sum of \$400,000 for continued effort by DRBC staff to help Pennsylvania fulfill requirements of Act 220, the Pennsylvania Water Resources Planning Act. This Budget also provides for the transfer of \$925,000 from the Water Supply Storage Facilities Fund to the General Fund and projected revenue from project review fees in the amount of \$505,000. Mr. Gore noted that in a departure from past practice, the federal Section 106 water quality grant is included in the Special Projects Fund rather than in the General Fund. He noted that the resolution acknowledges that the signatory contributions included in the Budget are subject to the respective budgetary process of the signatory parties.

In response to a comment and direction from Ms. Myers, Mr. Gore agreed that that the sum of \$665,000 listed in the column headed "Groundwater Protected Area/Water Plan Assistance" should be reduced by \$26,000, because the 3% increase in Pennsylvania's "fair share" contribution to operating expenses would be drawn from Pennsylvania's Groundwater Protected Area Program contribution. Mr. Gore agreed that the sum of \$665,000 would be changed to \$639,000. Pennsylvania's total contribution, consisting of its "fair share" contribution for operating expenses, its payment for administration of the Southeastern Pennsylvania Groundwater Protected Area program, and its Act 220 Water Resources Planning Act appropriation, would therefore equal \$1,532,000 rather than \$1,558,000. Mr. Gore said that the grand total of signatory contributions would accordingly be changed from the sum of \$4,239,000 shown on the proposed resolution to \$4,213,000.

Ms. Noble asked Lt. Col. Baker, in light of the federal government's failure to pay its share of the DRBC's operating budget since 1996, whether the Army Corps of Engineers had submitted the Commission's fiscal year 2008 budget request to congress. Lt. Col. Baker said that to the best of her

knowledge, Army Corps Headquarters had not included this item in the Corps' budget request. She added, however, that in her visits with approximately 20 members of congress over the past three weeks, she had applauded the efforts of the Delaware River Basin Commission. She noted that Carol Collier accompanied her on some of those visits and requested that federal funding for the Commission be restored. Ms. Noble said that even though saying so repeatedly had gotten her nowhere, the Corps was in dereliction of its covenant under the Compact. She nevertheless thanked Lt. Col. Baker for her support of the Commission.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution approving the Commission's operating and capital budgets for fiscal year 2008 as amended. Ms. Myers so moved, Mr. Donnelly seconded her motion, and Resolution No. 2007-6 was unanimously approved in a roll call vote.

Add-On: Resolution Provisionally Reauthorizing the Commission's Toxics Advisory Committee Pending Notice and a Public Hearing on May 10, 2007. Ms. Bush related that the Compact empowers the Commission to establish advisory committees, and DRBC has had a Toxics Advisory Committee (TAC) since 1994. In that year, the Commission decided that the number and complexity of issues facing the Commission with respect to toxic pollutants warranted making the Toxics Subcommittee of the Water Quality Advisory Committee into a separate standing committee. The "TAC" as it is known, was renewed again in March of 2000 for an additional five-year term. The Commission continued to task it with long-running efforts, and nobody noticed as 2005 came and went that the mandate had expired. The proposed resolution would reauthorize the TAC retroactively to March 7, 2005 pending public notice and a hearing at the Commission's May 10<sup>th</sup> meeting, at which time, having reviewed the composition of the committee and its charge, the Commissioners may reauthorize or dissolve it as they wish.

Mr. Mauriello asked why a term limit was set for the committee. Ms. Bush explained that re-authorization provided the Commission with an opportunity to re-consider a committee's composition and the process for appointing its members, as well as for reviewing the tasks and priorities assigned it. Re-authorization also provides the public with an opportunity to comment on these matters. The process is one way for the Commission to stay in touch with particular interest groups on issues of concern to them and to update the membership and charges of a committee if appropriate.

The complete text of the Resolution for the Minutes follows:

A RESOLUTION provisionally reauthorizing the Commission's Toxics Advisory Committee pending notice and a public hearing in May of 2007.

WHEREAS, in October of 1994, the Commission determined that the expanding range of issues facing the Toxics Sub-Committee to the DRBC's Water Quality Advisory Committee warranted the creation of a separate advisory committee, and by Resolution No. 94-16 it established the Toxics Advisory Committee (TAC) to serve for a period of five years; and

WHEREAS, in March of 2000, recognizing the ongoing need for a committee to assist it in formulating policies, procedures and actions concerning the control and

abatement of toxic substances, the Commission re-authorized the TAC for an additional five-year period; and

WHEREAS, the Commission continues to rely upon the TAC as a source of valued technical expertise and advice; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that pending review of the composition and charge of the TAC and a duly noticed public hearing to take place on May 10, 2007, the TAC is hereby re-authorized retroactive to March 7, 2005.

Hearing no further comments or questions, Lt. Col. Baker requested a motion to approve the proposed resolution provisionally reauthorizing the Commission's Toxics Advisory Committee pending notice and a public hearing on May 10, 2007. Mr. Klotz so moved, Mr. Donnelly seconded his motion and a Resolution for the Minutes was approved by unanimous vote.

Public Dialogue. Lt. Col. Baker opened the floor to comment. Jim Serio of the Delaware River Foundation asked whether Rick Fromuth's report on snowpack levels could be made available on the website. Mr. Rupert explained that the snowpack report, which is prepared by the National Weather Service, already is accessible from the Commission's website, but he said that he could make it easier to find, for which Mr. Serio thanked him. Mr. Serio also recommended that the Commission consider expanding the scope of work for Hydrologics, Inc. to include in addition to linking the OASIS and salinity models, evaluating the effects of averaging the Montague flow target. Mr. Quinodoz noted that the approved modeling project is for a fixed sum and funded by a grant award. The work proposed by Mr. Serio is open-ended and would entail further negotiation, to say nothing of the need to identify a funding source. Mr. Serio said he understood. Mr. Gast pointed out that evaluation of averaging of the Montague flow target might not require the expertise of Hydrologics.

Mr. Serio offered additional comments on the subject of the Flexible Flow Management Plan (FFMP). He said that he does think the plan is well-named in that it is more flexible. He said he considers it a huge step forward to move away from habitat banks and temperature targets. He said that in his view, however, the FFMP does not go as far as it could. It takes advantage of available water by converting uncontrolled spillage to controlled releases. Releasing more water when the reservoirs are full and conserving it when the reservoirs are lower, as the FFMP proposes to do, makes sense. To an extent, however, the Montague target is a violation of that principal, because when less water is available in the reservoirs, the target at Montague requires that more be released. Mr. Serio said the FFMP takes a step towards changing that. He is concerned, however, that the upper mainstem is not mentioned in the FFMP, either as a tailwater fishery or as a reach in need of habitat conservation measures. He noted that previous augmented release programs always recognized, at least as a goal, maintaining temperature targets into the main stem. Since the FFMP would do away with the temperature targets, it would be appropriate in his view to have a placeholder addressing protection of the habitat and fisheries in the upper main stem. Mr. Serio said that because the FFMP represents such a big change in operation of the reservoirs, he is also concerned that there will be no bank whatsoever as a reserve to alleviate some as-yet-unknown problem that might arise when the program is implemented. He noted that nature seems to throw curves at the basin fairly consistently, and it would be prudent to have a bank available to allow for releases if additional water is needed in an unforeseen circumstance.

John Flaherty of Delaware Common Cause inquired as to the project review application for hearing item number 2, BP Oil Company, Docket No. D-91-32-4. Lt. Col. Baker said this docket renewal, which involved no significant changes, had been renewed.

Richard Schneider of Delaware Common Cause suggested that the Commission apply to foundations to help make up its signatory funding shortfalls. He then read the attached comments concerning protection of aquatic life and water quality in the Delaware River.

Mr. Donnelly noted that the Commissioners all had received an eloquent letter earlier in the week from attorney Steve Picco, who represented Moyer Packing Company in its dispute with Mainland Golf Course brought before the Commission last fall. Mr. Donnelly read aloud the letter's closing paragraph:

"I have appeared before various kinds of government agencies throughout the years in my legal career as well as having served on the Delaware River Basin Commission many more years ago than I care to think about. The performance of Ms. Pam Bush and Mr. Bill Muszynski in this matter was as high a level as I have ever encountered. You and we are fortunate that you have people of such caliber on your staff. Sincerely, Steven J. Picco."

Mr. Donnelly said we don't often receive compliments like this, and our staff members don't. Turning to other staff members deserving of praise, he said that Bill Gast, Harry Otto, Joe Miri and Dr. Muralidhar probably represent a century and a half of experience, and it showed in the FFMP summary they presented today. He said he knew they had worked staff years on this FFMP and although it isn't quite done, he said praised them for doing a heck of a job. Mr. Donnelly said letters like Steve Picco's and efforts like those of Bill, Harry, Joe and Murali deserve our appreciation. He said he just wanted to say "thank you" on behalf of all of the Commissioners. Lt. Col. Baker added "Well done."

Hearing no further comments, Lt. Col. Baker adjourned the Commission's business meeting at 3:40 p.m.

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary

Comments of Richard Schneider, Delaware Common Cause, during the Public Dialogue section of the Commission meeting of February 28, 2007.

I'm a concerned citizen from Delaware. I'm here today to talk about two important subjects concerning the Delaware River. One is protecting the aquatic life. The other is protecting the water quality.

Protecting the water quality; fish, planktons, shellfish, crabs and oysters.

Business and industry draw in billions of gallons of water a day and as a result kill billions of fish a year, year after year. The life of the river is being sucked out of the river. A way to greatly reduce this killing is to use cooling towers. The handout I've given you is a *Wilmington News Journal* newspaper article describing this. One article is front page on January 14, 2007, and a second article is January 27, 2007. It's an excellent article. Please read this article. It is very informative. Jeff Montgomery did an excellent job. The first part of it is about the fish kill. Another part in the article is about a giant loophole that business uses, and the January 27<sup>th</sup> article is about a federal court ruling saying they can't use that loophole anymore.

The many refineries, power plants, businesses along the river draw in water for cooling purposes. The Valero refinery in Delaware alone draws in 250 to 450 million gallons of water a day. The problem is this kills billions of fish, year after year. Cooling towers can be used to cool the facilities, refineries and power plants. The needless and senseless unnecessary killing of the aquatic life must be stopped. It has destroyed and continues to destroy the aquatic life in the river. It is a simple question of whether something is good or bad for the river. If it is bad for the river it should be stopped. If it is good for the river it should be allowed. The unnecessary drawing of water from the river for cooling is bad for the river and should be stopped. Cooling towers for cooling purposes is good for the river and should be required.

The public asks the Commission that when water intake permits come up for renewal, that cooling towers be required. The Valero and Sunoco refineries over the last 5 years have posted record profits, year after year, profits in the billions of dollars, every year. So their excuse they can't afford cooling towers is not valid. It is not fair that the special interests, the refineries, benefit by not having cooling towers and the commercial fishermen and thousands of recreational fishermen suffer. The loss to commercial and recreational fishing and related businesses is in the millions of dollars, year after year. The environmental group Green Delaware, the Sierra Club of Delaware, the New Jersey Environmental Federation – all want cooling towers. The Delaware Riverkeeper Network organization has wanted cooling towers for years. I met with and discussed cooling towers with Secretary Hughes of the Delaware Department of Natural Resources and Environmental Control (DNREC) and he is in favor of cooling towers. Cooling towers are wanted, are necessary and are helpful to the river. There is a difference between using the river and abusing the river. Using the river for shipping purposes is ok. Transporting goods by boat is using the river. The unnecessary, senseless and harmful killing of fish by not using cooling towers is abusing the river. It is total abuse. Abuse is so wrong. The senseless, unnecessary, harmful killing of aquatic life must stop. The public asks for your help, for the good of the river.

The second topic concerning the river is water quality. The question is how much poison, run-off, industrial waste should be in the river; ideally none. Just because it is a big river

does not mean it should be used as an unlimited dumping ground. Recently, DuPont at Chambers Works, New Jersey, wanted to dump millions of gallons of VX waste into the river. It was unwanted, unnecessary and harmful to the river. They didn't care; they just wanted to make a profit. They finally decided against it. They tried to spin it as an environmental decision. That was a lie. They stopped the idea because it was being held up in court by concerned environmental groups and would not have been able to meet the international treaty deadline for the disposal of the VX chemical weapons. The great result of this was the huge opposition by ordinary people, politicians and environmental groups. Thousands of ordinary people opposed it. Many politicians opposed it. The Delaware legislature unanimously passed a resolution opposing it. The Governors of New Jersey and Delaware opposed it. U.S. Congressman Rob Andrews led the opposition to it. Every environmental group in New Jersey and Delaware opposed it. The Delaware Riverkeeper Network opposed it. The message was loud and clear, everyone did not want the Delaware River to continue to be used as a dumping ground. The Delaware River Basin Commission needs to hear this message and act on it.

Everyone is fed up with the fact that the river is so bad you can't even eat the fish in it, a true waste of a great natural resource. There is no limit to how much industrial waste can be put in the river. The DuPont Company, as well as other companies, has the green light, no limits. They failed with the VX but are continuing to solicit all across the country to find more poisons to dump in the river for the sake of a profit; the almighty dollar. The DuPont Chambers Works is the #1 industrial waste processing facility in the country. It dumps millions of gallons of waste into the river, day after day, year after year. That is not good enough for them. They actually seek to dump even more into the river. Why not? There is nothing stopping them.

There's two ways to clean up the river. One is to reduce the dumping into the river. The second is to not allow more dumping. It is no good to reduce in one spot but allow more in another. You're taking one step forward and two steps back. There will never be any progress doing it this way.

The public asks the Commission to pass a regulation and set a limit. No more increase of dumping in the river, also to set a timetable for certain percentages of decrease for each facility, a certain percentage a year. To have on the Delaware River the #1 in the country industrial waste water processing facility dumping millions of gallons of waste into the river is nothing to be proud of. The goal is to clean up the river, not make it worse. Everyone is asking the Commission to help in this effort. The Delaware River is a great natural resource. Let's make it a river we can be proud of, for us and future generations. The *Wilmington News Journal* article is an excellent article. January 14<sup>th</sup> and January 27<sup>th</sup> can be looked up on the web by Jeff Montgomery. Please read it. Thank you very much.